

To: Mr. Gary Hovatter, AGFD Yuma Region IV Information & Education Program Manager (I&E Manager Hovatter or Mr. Hovatter), et al.

From: Ron Kearns, Retired Kofa NWR Wildlife Biologist, USFWS

Date: Wednesday, October 17, 2007

Subject: Reply to an e-mail dated Monday, September 24, 2007

Notwithstanding my critical comments regarding what I consider secretive, unethical mismanagement of bighorn, mountain lions, and artificial water developments in wilderness on Kofa NWR (or KNWR) at the deficit of biodiversity, my statements are not an overarching imputation against the many excellent, dedicated Arizona Game and Fish Department (AGFD or Department) wildlife managers, wildlife biologists, wildlife researchers, administrators and Commissioners. My critiques apply only to the persons I specifically name. Even then, I cannot deny their other positive wildlife management contributions nor do I necessarily personally dislike them, or you, and no decent person is beyond professional redemption. There may be possible implications of error, misjudgment, or inaction regarding other people referred to in the intra-agency or inter-agency e-mails; however, the readers must draw their own conclusions extraneous to my arguments. My specific trust in AGFD public servants was reinforced when I observed the professionalism exhibited by a few Department employees in several intra-agency correspondences. There are volumes of e-mails and other such correspondences I could have referenced, however I did not because of this letter's length, as is. Throughout this letter, all emphases are mine, unless otherwise noted. I use the word *depredation* meaning a lethal action taken by humans to **reduce/remove** a wild predator (e.g. depredation hunt/order/permit) and I use prey (preyed) on/upon to denote predation involving predator/prey interactions. I have avoided the acceptable, albeit confusing, word predate (predated). I added the Latin (sic) when I transcribed documents; my intent is accuracy with transcriptions, not pedantry because I also make more than my share of misspellings and grammatical errors, especially within informal e-mail correspondences. The last pages of this letter following my valediction contain a graphic and several transcriptions of e-mails supporting some of what I posit in the body of my script.

First, the *Investigative Report and Recommendations for the Kofa Bighorn Sheep Herd (Report)* was not officially in effect when AGFD personnel killed the Kofa NWR collared tom lion on Sunday, June 3, 2007. Dr. Benjamin Tuggle, Region2, Regional Director (Dr. Tuggle) did not become a signatory to the *Report* until the next day, Monday, June 4, 2007. Therefore, the death of the lion was not based on an officially signed document conferring legality to the >1 bighorn killed on Kofa NWR criterion or other recommendations. I purchased the lion collar with federal funds, making a concurrence necessary on a co-signatory document, and the Regional Director had not agreed with the contents of the document until the day after the depredation (bad news/good news travels fast or just a coincidence?). I formally request of Dr. Tuggle to halt all the proposed cougar-related and artificial water development actions in the *Report* until the complete document receives full public review during an open comment period similar to the process given the Draft Black Mountains Bighorn Sheep Management Plan. The entire progression of the *Report* and the *Kofa Mtns Complex Predation Management Plan (Plan)* appears to have been a rush to have documentation in place to kill the cougar by the time he preyed on his first bighorn. However, the AGFD literally *jumped the gun* by just a day with killing the lion on Sunday when the *Report*, including recommendations therein, was still unsigned. You might respond that the AGFD

Plan had been in effect so it *trumped* the *Report*. However, the *Report* focuses on National Wildlife Refuge lands within Kofa NWR and there are false and/or misleading statements and unsubstantiated scientific claims in both the *Report* and *Plan*, which without public scrutiny and comments, have gone unchallenged and will lead to additional secretive mismanagement of Kofa NWR by the US Fish and Wildlife Service (Service) and the Department. Importantly, the *Plan* had not received final approval by the AGFD Project Evaluation Program Supervisor to “*move forward*” until May 30-31, 2007, which was about a week after the death of the 2nd lion-killed bighorn. Therefore, neither the *Report* nor the *Plan* were officially in effect during the deaths of the 2 bighorn and retroactively applying the depredation order to kill the lion based on those previous bighorn deaths is unethical and devious, especially since no public external review was afforded either agency document.

A timeline of events follows that covers the period from the cougar’s capture/collaring, through his unjust death, then concludes with a concern raised in the *Plan* by a respected and acknowledged AGFD lion researcher. Most of the following information is the result of a public records request; an excellent and equitable procedure the Arizona State Legislature allows the public to gain information pursuant to the Arizona Public Records Act.

- **February 28, 2007:** The capture/collaring of the young tom lion (lion, KM01, collared cougar)
- **April 17, 2007:** Date on the final *Investigative Report and Recommendations for the Kofa Bighorn Sheep Herd (Report)* although not officially signed until Monday, June 4, 2007.
- **April 20, 2007:** (From Kofa/AGFD pers. comm) or (“**April 17 or 18**” from Contact Lion Trapper Mr. Ron Thompson’s field notes) First confirmed young ram bighorn killed by KM01 at a location “*less than one mile from the Kofa NWR boundary*”, but definitely not within the KNWR boundary.

The previous quote was from I&E Manager Hovatter’s e-mail while Trapper Thompson’s field notes documented; “*(Just off Refuge) About 1 mi.*” From the general location given, this area is BLM land and it may be in that agency’s New Water Wilderness Area.

I requested a GPS location for this kill site on Friday, September 28, because of the apparent location discrepancies and the false and/or misleading statement by AGFD Yuma Region IV Supervisor Mr. Larry Voyles (Supervisor Voyles) in a newspaper article that this was a Kofa bighorn. On June 13, another person requested this and other bighorn kill locations, but the information remains unprovided, and I am still requesting the location almost 3.75 months later. Kofa Acting Refuge Manager Henry stated on Wednesday, October 3, 2007, that I must submit a FOIA request for this information. I contacted the BLM Yuma Field Office, but they never received the location and they know less than I do, although the lion-killed bighorn was on their land. After a request to Assistant Henry regarding her denial of my initial request for the GPS location, I received this reply last Friday afternoon, October 5, “*We have been asked by our field solicitor not to provide any FWS information, or records, to you without having you go through the Freedom of Information Act request process.*” The delay of this letter results partially from my failed attempts to gather this important fact before I replied.

I finally realized last Thursday the 11th during a brief cordial telecon with a lawyer in the Albuquerque field solicitor's office that I am simply not going to get the GPS location without going through the complete FOIA process. My previous experiences with requests through the FOIA have resulted in my concession because it will take 30 days or more for a reply if a delay notice is returned to me. The agency staffs are not wearing me down by this denial of my request for openness in government; I just cannot wait 30 days to send this letter.

- **May 24, 2007:** 2nd confirmed bighorn preyed on by KM01 and the first and only Kofa bighorn killed by this lion within the Kofa NWR boundary.

The lion *unofficially* became an *offending lion* subject to death. Following this 2nd kill (>1 bighorn) the *Plan* was still not official because it was unsigned and the final environmental compliance clearances through the AGFD were pending and incomplete. Therefore, because the 2 kills occurred before the *Plan's* official status, both kills should not have officially counted against this lion. The *backdated* application of a new policy that was without an effective signatory when the actions occurred is as unjust as applying the same tactic to most wildlife laws.

- **May 25, 2007:** The AGFD Director Mr. Duane Shroufe (Director Shroufe) signed the *Kofa Mtns Complex Predation Management Plan (Plan)*

The signing happened although internal review by an important AGFD lion researcher, Wildlife Specialist II Dr. Ted McKinney (Dr. McKinney), who expressed concerns with a main concept of the *Plan*, had not occurred nor was there any coordination with BLM.

Since the *Plan* did not receive proper review, I formally request of Director Shroufe to halt all the actions therein and I ask for an open, full public review and comment period similar to the comment period for the Black Mountains Plan.

- **May 29, 2007:** AGFD Yuma Region IV Game Specialist Bob Henry (Game Specialist Henry) replied to AGFD Project Evaluation Program Manager Ms. Rebecca Davidson (Program Manager Davidson) in an e-mail.

Program Manager Davidson previously asked Game Specialist Henry for coordination evidence in a May 25 e-mail, "*In terms of coordination with the NWR and BLM—do you have any letters of support or emails of coordination I can include in my files?...And for the BLM lands, the RMP hasn't been finalized, so wondered if there was any issues there.*"

Game Specialist Henry's reply on May 29, "***As for BLM, we haven't coordinated with them at all. I've been told from above that this is considered a purely Game and Fish activity (like setting hunting regs) and that we don't need or want BLM's approval.***"

- **May 31, 2007:** Program Manager Davidson writes the following in an e-mail to Game Specialist Henry (Mr. Bob Broscheid is the AGFD Habitat Branch Chief; An **EAC** is an Environmental Assessment Checklist):

*“Hi Bob, I am attaching the **final, signed EAC** for the Kofa Mountains Complex Predation Management Plan. **Your project is approved to move forward.** I did speak with Bob Broscheid about the issue of coordination with BLM. I also spoke with Larry this morning when I gave him an update that the EAC was finalized (as of yesterday). Based on these discussions, **please ensure that any coordination takes place, as needed with the BLM,** to ensure consistency with the Wilderness Act for actions undertaken in Wilderness areas.”*

No consultation or involvement in the *Plan's* wilderness coordination regarding the lion tracking/death or other non-wilderness discussions occurred with the BLM Yuma Field Office Team Lead for Recreation and Wilderness Mr. Ron Morfin (Team Lead Morfin).

According to the people I contacted at BLM, who should have been involved, there was no AGFD/BLM coordination whatsoever, which was evident once the news circulated that the lion had been shot (see BLM Biologist Fred Wong's comments below). The EAC made the project (*Plan*) an *official* document after determining that compliance needs, such as NEPA, did not apply (which I strongly disagree given the scope of the *Plan* and also the *Report*). Even after Program Manager Davidson approved the EAC for the *Plan*, she still asked for coordination with BLM. She was apparently making every effort to perform her job to ensure that BLM was included in this process.

Although BLM is listed as a LANDOWNER along with the FWS, lack of planned coordination with BLM is documented in the EAC under the COORDINATION Section: *“Coordination will be maintained with the U.S. F.W.S., Kofa National Wildlife Refuge.”* (BLM is not included along with the USFWS).

- **June 03, 2007:** AGFD Field Supervisor Mr. Dave Conrad (Field Supervisor Conrad) shot cougar KM01 at Dripping Springs, outside the Kofa NWR boundary.

Interestingly, Director Shroufe signed the *Plan* on May 25, the day after the second lion-killed bighorn's confirmation on May 24, and then the day after killing lion KM01 on June 3, Dr. Tuggle signed the *Report* on June 4. This pattern appears to be more than coincidental and suggests deliberate reactions to threshold triggers set to determine lethal lion removal and expedited attempts to make the killing appear *official*.

- **June 04, 2007:** Dr. Tuggle signed the *Report*, the day following the cougar's death.
- **June 11, 2007:** The public still did not have access to the *“white paper”* or the official USFWS position on defining the *“offending lion”* concept.

A reference to *“offending lion”* was presented in a Kofa NWR Action Matrix entitled: *“Needed and Existing Environmental Documentation for Desert Bighorn Sheep Recovery Action on Kofa National Wildlife Refuge”*. Two excerpts from the table:

Offending Mountain Lion Removal² Action: EA MRA 30-Day Public Review

Redevelopments at Yaqui and McPherson Tanks² CatEX MRA

²***Provide information to interest groups early and often to smooth implementation.***

No such information was provided, in fact, the Yaqui and McPherson Tank *redevelopments* were secretly conducted. A 30-day public review period definitely did not occur.

The public, except for hunting groups who helped with the installations, were never notified about the implementation of the Yaqui Tank (partially in wilderness) or McPherson Tank artificial water development in wilderness until the request for that information in a conference call between agency officials and representatives of conservation organizations. The information occurred after the offending lion was dead, after the full completion of the Yaqui Tank *redevelopment*, and after the McPherson Tank *redevelopment* construction was underway. Below is Manager Cornes' June 11, 2007 e-mail reply following my initial request:

"Mr. Cornes, Last winter when you and I were discussing bighorn/lion issues you stated the FWS was working on a White Paper. May I receive a copy of that document? Thank you, Ron Kearns"

"Ron, The "white paper" will be available to the public very soon. I will ensure that you receive (sic) a copy as soon as it is available. Paul" (The "white paper" quote was Cornes' original emphasis).

The next excerpts are from a correspondence on January 31, 2007 between Biologist Smythe and Game Specialist Henry involving the changing the name of the "Action Plan" to the current Report per a request by Manager Paul Cornes. This is important because others and I were always told it was an investigatory **white paper**, not a management plan, and that we would be given a chance to comment on the paper (I have collaborating evidence) but we were never given that opportunity. Posting of the Report on the Kofa NWR website occurred after the collared lion's death and after the artificial water development in wilderness was underway.

Biologist Smythe wrote, *"Latest attempt. Paul asked me this morning if we would consider changing the title to something that **sounded a little less like an action plan and more like a white paper**. (I can see your eyes rolling. I saw that.). He's concered (sic) about the first impression our folks will receive from the document. I made a suggestion. Harpoon it if you so desire."*

Game Specialist Henry replied, *"Yep, I rolled my eyes. But I don't really care what it's called. Your suggestion is fine with me."*

- **June 20, 2007:** Seventeen days after the lion's death, BLM Wildlife Biologist Mr. Fred Wong wrote to Biologist Smythe.

“Lindsay, Do you know whether the mountain lion that was killed by Game and Fish on Kofa Refuge or BLM land? Do you know the exact circumstances? There was absolutely no coordination between BLM and Game and Fish if it was on BLM land. From what I read and heard, it was radio collared, tracked, and killed. It had already killed 2 big horns and a mule deer (what is the time frame for these kills?). Also, there was some kind of agreement between Game and Fish and somebody else that if it killed its second big horn, the mountain lion would be killed. Also, do you know whether the mountain did any of its kills at watering holes? Fred”

- **July 02, 2007:** Over 1-month following the *Plan’s* signatory and just short of a month since the depredation of the lion and the *Report’s* signatory, Dr. McKinney expressed concerns to the AGFD Chief of Research Ms. Chasa O’Brien regarding the concept stated in the *Plan* that “*that lion predation can have significant population-level impacts*”.

The Department’s avoidance of such contrary evidence/concepts appears evident when staffs unethically extrapolate their *belief* that this 1 cougar’s predation of 1 Kofa bighorn out of an estimated 390-herd size was a “*significant threat*” to the “*already seriously declining bighorn sheep herd.*” References and evidence contrary to that *belief* received deletion by Game Specialist Henry and acquiescence by Biologist Smythe during deliberations of the *Report*. Such collaboration to ignore contrary evidence posited by noted experts is a display of a breach of scientific ethics leading to unsound and biased wildlife management decisions. The extremely unfair practice of branding a lion as “*offending*” after killing >1 bighorn in 6 months, which results in his death, is an example of biasedness and absurdity. The derivation of the prejudicially low threshold for a *lion depredation order* came from cougar predation levels associated with the federally endangered species of bighorn in the Peninsular Ranges of southern California. The Kofa NWR bighorn population is not federally endangered and this inequitable level must not be applied to cougars on Kofa NWR, especially when human hunting sport harvest levels of Kofa bighorn exceed the cougar’s *safe* permissible prey harvest level by up to 13 fold, in this specific case. If the Department is going to use the lowest common denominator for predator control taken from an endangered bighorn population, then they must not continue to hunt Kofa NWR rams because the Peninsular rams escaped sport harvest during their decline.

During the next section, I will mainly comment on the following 2 excerpts from your e-mail emphasizing their implications to Kofa NWR wildlife management:

- 1) “*given the dearth of resident Kofa mountain lions over the history of the refuge*”
- 2) “*men who, collectively, have accumulated decades of mountain lion experience as a result of assignments and projects conducted throughout the southwest.*”

A dearth of evidence of resident Kofa mountain lions does not equal a dearth of resident Kofa mountain lions. Your fallacious statement (or the words of whomever you are parroting as spokesperson) is an example of the logical fallacy of *argument from ignorance* involving the apparent nonexistence of opposing evidence so you *believe* your statement must be factual. The lack of abundant evidence and

my efforts to add to the anecdotal and factual evidence that exists for cougars were the reasons I began setting up cameras at water holes and why I purchased the satellite GPS collar. I was attempting to learn something about Kofa cougar natural history but the Department squandered an excellent opportunity to gain that knowledge when Field Supervisor Conrad shot the collared cougar after just 3 months of a collar that should have provided data for 10-12 months. The following statement from the *Report* and the *Plan* is false, and I have repeatedly written to both agencies about correcting the misinformation and falsehoods. *“There are no verified records of mountain lions on the refuge between 1944 and 2001.”* The KNWR and AGFD staffs have ignored the available, although limited, evidence of Kofa NWR lions from reliable hunter accounts since the mid-1970s and a verified kill and a prey cache in the late 1970s/early 1980s. I doubt that those hunters, who others in the AGFD and KNWR staffs and I know personally, want labeling as men who would make false statements to others and me regarding cougar sightings on Kofa NWR. No one knows if those observed lions were resident lions or not. The definitive account of a lion-killed bighorn during 70s/80s period occurred east of the King of Arizona mine area. The kill was verified and documented by 2 USFWS employees; an experienced wildlife biologist and a Kofa NWR LEO who was investigating a potential wildlife violation by men who were in possession of the head of a recently killed bighorn. The following statements you, as the Department’s spokesperson, others in the Department, and Manager Cornes made in newspaper articles are clearly false and/or misleading and the agencies perpetuate those unethical statements and refuse to acknowledge error, correct mistakes, or retract misstatements:

- *“I think it is very intriguing, the whole issue about species like this, that it has not been documented here in the 66 years that (the refuge) has been in existence”, said Paul Cornes, Kofa refuge manager.”* (Excerpted from the December 02, 2006 Yuma Sun article)
- *“Documentation of mountain lions in the area began around 2000, a factor which may help explain continued depressed, even declining, sheep numbers.”* (Excerpted from the *Plan*)
- *“The single biggest change in the Kofa was the establishment of a resident lion population,” says Hovatter. “For almost a hundred years, there’s been no history of a mountain lion population here.”*

The following statement is a further example of an exaggerated statement in a High Country News article from which both the preceding and next comment were excerpted:

- *“In the most recent attacks, Hovatter thinks the lion was staking out a watering hole in the refuge, “killing every big game animal that came to the water”.”*

Although I agree, along with several AGFD WMs, that cougars and other predators, including humans, use the vicinity of watering holes to ambush their prey, your statement is exaggerated and factually baseless.

To stop the Department and Service from these perpetual falsehoods, I want to provide the names of the 4 individuals who can substantiate the presence of lions on Kofa NWR during the period before the agencies’ claim of cougars’ year 2000 “migration into Kofa”. The agencies are jumping to illogical

conclusions and assumptions based on demonstrable falsehoods and agency staffers are aware of or choose to ignore available lion sightings and other evidence I provided including a lion prey cache at Adams Well in the late 1970s. Remember this is lion country as documented by a lion video-captured in 2001 at Adams Well and the lion captured and collared there last June 3, 2007. Such unethical, senseless conduct of discounting the evidence initially given to or provided me by others is the antithesis of sound scientific methodology, basic logical reasoning, or unbiased fact-finding. The problem I encounter with my proposal of furnishing names is there is no one in either agency close to the lion issue who I can trust to follow-up and report the factual lion accounts these 4 men can confirm. I am open to any suggestions of how to do this with an arbitrator or any other option to document this information to counter the *no lions on Kofa until the year 2000* style of nonfactual misstatements.

A member of the AGFD Region IV staff told me I would likely not “*get anything*” when I borrowed the first TrailMaster camera from the Department to start the Kofa NWR lion inventory/research. We simply had not made an effort to investigate and document the presence/absence of cougars on Kofa NWR until the queen lion and her 2 cubs were observed on the 2003 bighorn survey. Germaine et al. conducted a survey during the cool season of January/February in the mid-1990s on Kofa NWR and found no evidence of lions. The Department concluded from one limited effort that there were no lions. Had the investigators conducted their surveys in May or June, when lion water hole visits increase in frequency, their conclusions might be different. AGFD Research Branch Research Biologist Mr. Steve Rosenstock (Biologist Rosenstock) wrote this comment in a review of the *Report*:

- **Comment [SR74]:** *But no systematic surveys other than the limited efforts of Germaine and Co. Steve G. will be the first to admit that surveys on Kofa were limited because of rugged terrain and poor access. Basically, they high-graded areas assumed to be high-potential and that was it. Remember also that their work was largely focused on documenting the elusive Yuma puma, not assessing lion distribution in SW Arizona.*

From my only direct experience with a lion capture effort in January 2006, one very competent Wildlife Services’ lion expert and a helper surveyed Kofa NWR on horseback while also using 10 or more lion tracking dogs in the area where we had good camera coverage of water holes and where most of the Kofa NWR lions were camera-captured. The trappers found lion sign/spoor, but they were unsuccessful with trapping attempts although we had consistently documented camera-captured lions over a 2-year period since January 2004 and we had very recent photos of lions at one water hole the men visited. People remotely knowledgeable of cougar habits know they are difficult to see and are very hard to capture, especially on Kofa, as your AGFD lion expert found out and you confirmed in your last cougar summary. If Region IV staff had spent more time on Kofa, they might have learned more about reported lion sightings and other evidence “*over the history of the refuge*”. Definitive documentation of mountain lion occurrence on Kofa began at least as early as 1944 and observations of cougars increased in frequency during the mid-1970s until today. Another important fact is, through the years, current AGFD biologists rarely helped Kofa NWR staff during June water hole counts and spring lamb surveys with the exception of WM Mr. Lowell Whittaker. Most of their experience on Kofa NWR occurred during bighorn captures, helicopter surveys, combined KNWR/AGFD research (mostly aerial telemetry) and some law enforcement patrols during the hunting season. The Department staff has had limited

time on the ground on Kofa NWR up until they *took over* the lion capture effort. Before the current AGFD staff became involved with Kofa NWR beginning in the mid-1980s, except for WM Whittaker, a very knowledgeable long-tenured biologist, who some AGFD staffers often unjustly deride, I had at least a combined total of 8 years of vocational and avocational experience with Kofa NWR bighorn, other wildlife, and an extensive knowledge of local vegetation. During that period, I received reliable reports of lions consistent enough that those lions could have been residents, although I too had doubts that lions were resident on Kofa NWR. I also received many unreliable reports that I discounted after conducting numerous field investigations. When the lion issue arose, as it often did, my reply was I would not mind having a few more lions because then the bighorn we translocated to other areas having lions might have higher survival if our sheep had been habituated to the presence of lions. Therefore, your statement regarding a *“dearth of resident Kofa mountain lions”* is an unsupported assumption derived from the logical flaw of asking acceptance of a negative (the proposition that the Department’s statement is simply factual because there is a lack of evidence to counter the claim). The real reason for the dearth of lion information is we simply did not adequately collect data to determine if lions were residents on Kofa NWR before I started the cougar inventory/research in 2004.

Regarding the accumulated decades of experience of some members of your staff, which I acknowledge far exceeds my lion experience, knowledge, training, education, credentials, etc., none of those traits, combined or taken singly, matter whatsoever if those credentials serve as authority to repeatedly state falsehoods, ignore contrary scientific evidence, or conduct unethical, secretive wildlife management. The stated laudable credentials certainly do not automatically confer ethical scientific behavior as I have recently learned the hard way from the unethical actions of the AGFD and Kofa NWR staffs since my retirement. Supervisor Larry Voyles made a false statement to the press that a justification for killing the collared tom lion was that he killed 2 Kofa bighorn when he in fact only killed 1 Kofa bighorn. I phoned Supervisor Voyles, he admitted the only 1 lion-killed Kofa bighorn, then you concurred during a follow-up telecon. I asked for an official correction in the paper and you stated you had sent a revision to the reporter at the Yuma Sun. Neither an acknowledged revision stating the error nor a correction ever occurred in the paper. The original newspaper article link is at the foot of this letter. The following is Supervisor Voyles’ statement from the June 05, 2007 article. *“When added to **two other known bighorn sheep kills on the Kofa National Wildlife Refuge during the past three months**, these dead sheep would equal the entire annual recruitment of yearling sheep that we would expect to be produced by 25 ewes,” said Larry Voyles, the regional supervisor for Arizona Game and Fish Department’s southwest Arizona region.*

The reason given when I questioned you and Supervisor Voyles regarding the false statement was that the lion-killed bighorn was less than a mile of the refuge boundary. A similar excuse is not afforded any hunter charged with poaching his quarry because he was less than a mile from his hunt unit boundary when he illegally bagged his game. The following statement from you in a June 17 e-mail is disturbing for several reasons. *“As I mentioned then, I was aware that only one of the four confirmed bighorn taken by this lion was taken on the Kofa (the second one was, in fact, taken less than a mile from the boundary of the refuge, but accuracy demanded that the distinction be made), **but I had written two of the four in my earlier draft releases...**”*. You most likely did not write Supervisor Voyles’ *“two other known bighorn sheep kills on the Kofa National Wildlife Refuge”* quoted statement in the article, did

you? I doubt Supervisor Voyles would let you assign his name to a quote in the newspaper without his permission. Therefore, he clearly made the statement, the basis of which eventually resulted in the wrongful death of the lion. Supervisor Voyles and his staff unethically stretched the refuge boundary to include a 2nd kill of a Kofa sheep to meet the ridiculously low threshold of a Kofa offending lion designated as killing >1 bighorn in a 6 month period noted in the *Investigative Report and Recommendations for the Kofa Bighorn Sheep Herd*. Bear in mind, bighorn outside the refuge boundary are not included in Kofa NWR population estimates and are not part of the Kofa NWR herd that is declining. One of the common reasons given that lions *must* be causing the decline of Kofa NWR bighorn is because bighorn are not declining to the same extent in most of the areas surrounding the refuge.

Biologist Smythe wrote on May 11, 2007 in a Kofa NWR Update, “*We did document a yearling ram killed by this lion off the refuge in April.” Therefore, other members of the public and I knew this was not a lion-killed Kofa NWR bighorn for 3 weeks before Supervisor Voyles make his statement. You also stated you knew only one bighorn was killed on Kofa NWR then Supervisor Voyles must have known before he made the statement. Most, if not all, of the AGFD staff involved with the lion work likely knew the number of lion-killed Kofa NWR bighorn by Saturday, June 2, 2007 since the only Kofa bighorn was killed on May 24, 2007 at White Dike. That date was 10 days before 3 June death of the lion and 12 days before the 5 June statement in the newspaper. The following script came from the field notes, received through a public records request, dated 2 June 2007 (Sat) the day before the cougar’s death. “*Decided he’s “offending” after 2 known sheep kills, 1 in the Plomosas, 1 at White Dike*” The Plomosas are not within the Kofa NWR boundary so this is additional substantive evidence regarding the number of lion-killed Kofa NWR bighorn. The following statement is another contradictory excerpt from the June 5, Yuma Sun article, picked up by many AP affiliates, and is the official account on the AZGFD website:*

- “*According to a release, officials determined lions that take more than two sheep in a six-month period are a “significant threat” to the “already seriously declining bighorn sheep herd.”*”

Further, the official June 05 article on the AZGFD website states:

- “*Arizona Game and Fish Department officials have determined that lions that take more than two sheep in a six-month period are a significant threat to the already seriously declining bighorn sheep herd.*”

Exceeding over 30 days after the initial June 5 articles the “*more than two sheep*” statement was perpetuated in a July 8 Yuma Sun article even though the lion was killed on June 3 for killing 1 Kofa bighorn and as stated next:

- “*According to Gary Hovatter, thee (sic) information and program manager for the Yuma office, the agency has determined that lions that take more than two sheep in a six-month period are a “significant threat” to the “already seriously declining bighorn sheep herd.” That again references the Kofa NWR herd.*”

However, a different and inconsistent threshold for a depredation order in the *Report* and the *Plan* is this statement; “*Offending lions, defined as one that kills >1 bighorn within a 6 month period would be lethally removed*”. Which of the math choices is it? >1 or >2...

Now, since you and Supervisor Voyles said two (2) Kofa sheep when you both meant one (1) Kofa sheep, can you explain how you would define more than two sheep? That is not the same as 2 or more. Two (2) or more would be ≥ 2 (greater than or equal to 2) which would result in death if a lion killed 2 sheep before he was able to kill 1 more sheep, which would equal 3 sheep. Therefore, more than two (>2) must equal a solution that the Kofa lion could have killed 2 more Kofa bighorn since he had only killed 1 Kofa bighorn; $1+1=2$, $2+1=3$, or $1+2=3$. If the lion stopped at killing 2 Kofa sheep he should still be alive under the more than 2 (>2) formula. The AGFD sometimes states >1 (more than/greater than 1) within the agencies' *Report* and in their *standalone Plan*, then >2 (more than/greater than 2) in public disclosures. Please take a minute to explain the inconsistent *AGFD Region IV mountain lion depredation math*. Most importantly, please remember that the additional 2 lion-killed sheep were found at Dripping Springs after the lion was branded an "offending lion" from the 2 previous predations. He was then shot, so those 2 new sheep kills did not count in the *more than two sheep* on Kofa formula nor did any 2 Kofa sheep count in the total, only 1 did. The following is a timeline from the June 3, 2007 field notes:

- 1) *We sit \approx 75 m E of Spring at road turnaround.*
- 2) *Wait \approx 30-40 min before lion comes out & heads up hill where Dave shoots it.*
- 3) *Find 3 kills under trees at Spr. 2 ad. female BS, 1 ad. female MD.*

To avoid slighting or ignoring any contrary evidence or information, you could posit that the Department's statement of more than two lion-killed sheep applies throughout the *Kofa complex*. However, the 1 Department official and Trapper Thompson at Dripping Springs did not know about the other 2 lion-killed bighorn cached under the trees. Therefore, they shot and killed the lion before they knew about the 3rd (the qualifier for > 2) and the 4th bighorn. Of course, no one denies that lions kill bighorn because that is part of their evolutionary niche. However, evolved modern human predators cannot claim the same *life or death* natural instincts as a mountain lion. Yet they continue their excessive predation on a declining bighorn herd through sport harvests of rams and prey upon the other predators they jealously compete with for the rights of bighorn harvests.

One other related discussion of the *offending lion* definition included a reference to USFWS Region 2 Chief Biologist Ms. Kathy Granillo (Biologist Granillo) by Biologist Smythe. I usually Cc: my emails to Biologist Granillo because she understands the importance and application of the scientific quality goals of the USFWS, which I consider are not being applied at Kofa NWR:

- *Science is the foundation upon which conservation decisions are made in the Southwest Region and providing high quality information to the public is one of our main objectives. We adhere to the goal of strengthening the Service's tradition of scientific excellence and information quality in the conservation of fish, wildlife, plants and their habitat.*

On April 16, 2007, Biologist Smythe wrote to Game Specialist Henry regarding her initial suggestion of "using the Utah Game Dept's definition of offending lion – one that takes >2 sheep within a month or > 3 sheep within a year", to which Mr. Henry writes, "I'd rather stick with the definition that we've got..."

Ms. Smythe's reply was unprofessionally disrespectful of Biologist Granillo's position and status as long-tenured Chief Biologist, which demonstrates more of the biasedness by the AGFD/KNWR staffs in the Report:

- *"I agree it may not be the best idea to change the lion definition at the last minute, although I do like Utah's definition better. Kathy wanted all mention of any lion control taken out of the plan, or have it considered on a case-by-case basis because 'our definition wasn't tied to any science', but I don't think she had anyone else riled up about it. We might keep that definition in our minds as a backup if she does pitch a fit at the meeting."*

Of all the years I was the wildlife biologist at Kofa NWR, I considered Biologist Granillo as an extremely competent professional biologist who never hesitated to help me with all the myriad management plans that are required and I most often followed her excellent advice. I rarely disagreed with her, however I not once disrespected her biological opinion as happened in this case. I certainly never saw or heard her "pitch a fit". She was trying to ensure positing the best science for the Report, which I am sure she was ultimately required to recommend during her document review. Apparently, the agency staffers ignored Biologist Granillo's advice or she may have changed her position. I do not know the reason because I rarely contact her and when I have, she is very professional and unbiased. Since my retirement, I requested of Biologist Granillo that she keep apprised of the Kofa NWR biological decisions to ensure the application of best science in decision-making. Although she might disagree with my writing in this letter or elsewhere, I trust her forthrightness. I think she is unbiased and impartial as possible when she considers the proper role of science in wildlife management, regardless of her personal opinions of anyone involved at whatever level in the chain-of-command.

I consider the action of killing this collared cougar a case of poaching a tagged research subject belonging to the public that was providing expensive, valuable data about Kofa NWR cougar natural history to allow for sound biological and wildlife management decisions. Other AGFD lion researchers recognize the importance of mountain lion research. Elsewhere in Arizona, lion hunters are implicitly encouraged to consider not taking collared lions, for obvious reasons. Except in the Yuma Region IV, where public records requests are often required, interested persons in other AZ Regions are welcome to call and inquire about any of the lion research efforts. Why was/is there such secrecy in Region IV? The following excerpt is from page 50, in the Mountain Lion Hunts 2007-2008 Arizona Hunting and Fishing Regulations:

- *The lions instrumented with these collars are part of several ongoing research projects. The collars are used to track lion movements as researchers try to learn how the lions use various habitat types and urban interface areas. The longevity of these lions is important to the ongoing research, and data collected will help to improve Arizona's management of lions in the future. If you would like more information about any of these research efforts please contact the Arizona Game and Fish Department Research Branch at (602) 789-3247. Also, if one of these animals is harvested, the hunter is asked to return the collar...*

The Department values lions to the extent that they are classified as big game animals with an illegal harvesting of a lion resulting in this substantial penalty: *Civil Liabilities (sic): For each bear, mountain lion, antelope or deer, other than trophy\$1,500.00*

Again, Supervisors Voyles' statement, "Given the declining status of the bighorn population on the Kofa, it cannot withstand the level of predation that this particular lion was exerting on the herd," Voyles said. One lion kills 1 Kofa bighorn out of 390 Kofa bighorn in 3 months is exerting pressure on the Kofa herd? What type of logic or reasoning is that? Forget about applying science to such a position. Voyles' illogical and false statement tried to justify the premature depredation of the young tom lion. The callous action was at least the unethical tracking by satellite data then harvesting of the only scientific research subject in a study. The AGFD staff prejudicially disregarded the predictive value the predation data being collected from this lion could have provided for future, possibly necessary, lion depredation orders that others and I would support if the decisions were based on verifiable science instead of gut biases against predators. I used federal dollars to purchase the collar the tom was wearing for research and not as an expensive device to unethically track and kill him. The Department changed the direction of the Kofa NWR research after I retired and the Kofa NWR staff, especially Biologist Smythe, just let it happen. This is one of your statements to me when I questioned you, "The lion collaring and tracking effort is not part of a hypothesis-driven research effort. It is a management effort to ensure that any lion removal targets only lions preying on bighorn sheep". The Department's use of a publicly funded \$4500.00 collar, Argos satellite monthly use-fees of \$140.00+, and the thousands of dollars spent to capture and then kill a single collared lion is ethically and financially unconscionable. There was no evidence whatsoever that this 1 lion was exerting the high level of pressure on the Kofa herd Supervisor Voyles claims. Unfortunately, because of double-standard rules for the government the AGFD can claim this depredation as an "administrative action". Furthermore, how about the loss to the *declining status of the bighorn population on the Kofa* those 13 possible hunter-killed bighorn that the upcoming December Unit 45 hunt will allow; I know, those are just rams so the AGFD has no problem harvesting them, with which I emphatically disagree.

Regarding the sport harvesting of Kofa rams, you made this statement for the AGFD in a newspaper article; "He added that the herd, despite its low numbers, has enough rams to meet the herd's reproductive needs". What bighorn demographical data is that broad, unsubstantiated statement based on? During writings of the *Report*, Game Specialist Henry, strikethroughs Biologist Smythe's recommendation of, "An offending lion (one that kills >1 **bighorn ewe** within a 6 month period) would be lethally removed." Predatory hunters can harvest 10-13 Kofa rams that the AGFD is not concerned about during a population decline, but a natural predator is not afforded a harvest rate of more than 1 (>1) Kofa bighorn of either sex before he is himself harvested.

Demonstrating another bias, Game Specialist Henry also strikethroughs this statement of Dr. Rubin's that Biologist Smythe suggested adding to the *Report*; "~~In the peninsular populations of desert bighorn, there is some evidence to suggest that lion predation is cyclic and that lions may not have population level effects on sheep in all cases (E. Rubin, pers. comm).~~" Conservation Biologist Esther Rubin Ph.D. (Dr. Rubin), employed by the Conservation Biology Institute, "is working in collaboration with the California Department of Fish and Game to develop a predictive habitat model for bighorn sheep (*Ovis canadensis*) in the Peninsular Ranges of southern California. Bighorn sheep in this population are federally listed as endangered..." The Bighorn Sheep Habitat Model Project "is largely based on data collected by E. Rubin during a post-doctoral position at the Zoological Society of San Diego--- studying habitat use, population

biology, behavior, and risk of lion predation in Peninsular bighorn sheep. She played a key role in writing the U.S. Fish and Wildlife Service's Recovery Plan for this population and continues to work as part of the USFWS Recovery Team to implement recovery actions.” Dr. Rubin is also Secretary of the Desert Bighorn Council. I consider Game Biologist Henry as less qualified/credentialed than Dr. Rubin regarding mountain lion research and any population level impacts lions *might* have on bighorn.

Dr. McKinney, an excellent lion researcher employed by the AGFD, stated the following in a Monday, July 02, 2007 e-mail over 30 days after the *Plan* was approved.

- *“I just reviewed the Kofa Mtns Complex Predation Management Plan. Statement is made in there that several studies have demonstrated that lion predation can have significant population-level impacts. Concerns me somewhat when I see such comments. Note that Sawyer and Lindzey state that **NO studies have clearly demonstrated population-level impacts.** Our Monograph is the 1st study to address this in the manner suggested by Ballard (in paper cited in the Predator Mgt Plan), and even it suffers from the difficulty in demonstration such impact. Findings are suggestive for several studies, but lack inferential capabilities, and generally show lion kills (frequencies, numbers, differences among specific lions, etc.”* (Dr. McKinney wrote the NO emphasis).

Therefore, two experienced Ph.D. wildlife authorities, who I consider have greater credentials and lion research experience than the collective decades-long experienced *Yuma lion group* you referenced in your e-mail, are questioning the abilities of lions to exhibit population level effects/impacts on bighorn. The Region IV staff apparently discounts this evidence by strikethroughs and lack of thorough peer review of their *Plan* because it does not fit their preconceived lion biases *“that several studies have demonstrated that lion predation can have significant population-level impacts “*. In addition, *“Given the declining status of the bighorn population on the Kofa, it cannot withstand the level of predation that this particular lion was exerting on the herd.”* Can the AGFD present sound scientific evidence for such statements that might help resolve the question of whether or not KM01’s level of predation of 1 Kofa NWR bighorn had a *“significant”* effect on the Kofa NWR herd?

On Friday September 28, I learned that the *Plan* was signed last May 25, 2007 without thorough internal or any external public review periods, which demonstrates a rush to get the *Plan* done. The AGFD/KNWR staffs were unable to have a Kofa Mountain Lion Hunt because of a pending HSUS lawsuit; however, the satellite radio collar was a way to circumvent that inconvenience to *justify* killing at least 1 lion. My skepticism suggests when the AGFD knew after the lion had killed 1 sheep that he might kill another sheep soon and they needed the *Plan*, without allotting time for adequate internal peer review, to justify anticipated depredation actions against the lion. When asked about the *Plan* none of us had heard of, you stated in an e-mail, *“Attached is the Kofa Mountains Complex Predation Management Plan. It was signed at the end of May. I put out a press release on it shortly after it was signed, but none of the media ran it. I suspect they may have had a bit of “Kofa fatigue” about then.”* You knew conservation groups and individuals would be interested in the *Plan* and you should have at least posted it on the AZGFD website. In fact, the website posting has not occurred to date, 4.3 months after Director Shroufe signed the *Plan*. This nondisclosure demonstrates a reoccurring problem with the lack

of disseminating Department information as stated would be done in the *Plan*. The following passages are from the *Plan* under the Outreach Plan section:

- *Upon approval, a jointly coordinated news release including all the affected PIOs will be released to local (Region IV) media by the Region IV PIO, who will also coordinate for information about **the plan to be posted on the AZGFD website.***
- *A public meeting to present the plan should be held at the Region IV office in Yuma. Ideally, the date for this meeting should be noted in the initial press release and on the website posting.*
- *The Department will consider all requests from the public for presentations on the plan. Such requests should be considered likely.*

These actions have not occurred. I have repeatedly asked for website posting of lion information since last June 2007 and public presentations have not occurred. I understand that you, like many public servants, are very busy, but so are people who work in the private sector and who punch a time clock. Members of the public, especially I, must repeatedly ask for information and even though I asked for all Kofa lion-related public information, you and others from the Kofa NWR staff have not provided it in a forthright, upfront manner. You did not tell us about the failure of a collar release mechanism on the 2nd Kofa NWR collared lion until a month after that occurrence. You likely knew that many lion advocates, who would not have wanted the AGFD to kill this 2nd lion, would be pleased to hear the *good news*. Because of the secrecy of most of the Department's actions, some people think there is a possibility that the collar did not fail but an unethical employee killed this lion while he too was outside the refuge boundary, as the first depredated collared lion was. Several AGFD staffers have access to the GPS location data and many are likely to have VHF location capability with the abundance of telemetry gear and dial-in frequencies. The reason I inquired about the model number of the collar was to learn of the failure rate for the release mechanism for the \$4000.00 Telonics satellite GPS collar. I briefly spoke with a Telonics spokesperson who was extremely professional and who would not discuss specifics of the lion collar belonging to a client; I expected and appreciated that display of professional company/client confidentiality. I learned in a general way that such failures were rare, but I was unable to get a specific failure rate. I ask that you provide that information to me from Telonics, if it is available, so any doubt, other than this was a collar failure, might be set aside. I know from using some of Region IVs telemetry gear that the Department has used reliable Telonics products for many years and I would think they would be more than fair with a solution to the problem. If I were involved in a similar situation with a dropped collar, I would release all the available information including on-site photos, GPS fixes, etc. and I would not consider it an affront whatsoever, especially since mountain lion control is a controversial issue. Furthermore, I would have approached the site as an investigatory area to ensure there were no human footprints or other evidence suggestive of anything other than a release mechanism failure. Secrecy with recent Kofa NWR management actions and perpetuating false and/or misleading statements to the public by governmental officials creates a sense of deep distrust leading to skepticism.

I formally request of the Department staff the disclosure of the GPS location where the collar dropped off and the dates of the cluster around that location, since it failed on public lands outside of Kofa NWR.

To deny my request by requiring me to do a public records request or a FOIA request will only enhance any associated skepticism and doubt. You should also give the information to BLM staff since the collar drop was on their lands.

One last account of your lack of factually disseminating information occurred when a member of the public requested *“the exact location of the recent AZGFD puma kill in the New Water Mountains area. Please send GPS coordinates.”* You wrote:

“GPS coordinates of the kill were not recorded. It took place at Dripping Springs in the Plomosa-New Water Mountain Range. GPS coordinates of Dripping Springs (as taken from the map) are 33 36.612 / 114 4.656. The clump of trees in which the two adult bighorn sheep ewes were cached (with an additional dead mule deer) was within 30-40 feet of the spring. When first observed, the lion was in this same clump of trees”.

Every field biologist I know takes a GPS with him and documents important locations. Dripping Springs is on the map but it is hardly the exact location of the puma kill. Although perhaps not the exact location of the kill because of the timing of the Argos data, satellite location data is available for June 3 2007 and the exact location of the kill may be available. This quote is from the AGFD field notes:

“3 June- Recd. Sat. locations today showing lion was camped at Dripping Springs in Plomosas. Called Conrad & we’ll meet ≈ 1530 at Gold Nugget. Drive S. to overlook just E & N of Drip. Springs. We both take rifles. Can’t hear lion until almost in front of Spring. We leave truck at ≈ 1715”

The next request for the data associated with cougar KM01 was:

“Please also send GPS locations of the bighorn that the lion is thought to have killed, and information about the age and condition of the bighorn killed.”

In response to this very clear request, asking for different information (i.e., the other 2 sheep this lion also allegedly killed, 1 in the Plomosas and 1 at White Dike, KNWR) you copied and pasted the same answer to the first question then added info about the age and condition of the Dripping Spring sheep. The person was asking for those other 2 locations because those first 2 kills resulted in the justification for KM01’s depredation order, before the predation event by KM01 at Dripping Springs. The person want to established and confirm the elusive GPS location on BLM lands that the AGFD or KNWR staffs steadfastly will not readily disseminate without a public records request or a FOIA request.

Those 2 GPS locations requested were also logically downloaded satellite data points or the trackers would not have found the location cluster in the first place to find the dead sheep; therefore, you must have those GPS fixes. Please provide those locations to me. Since the USFWS and the AGFD are jointly working on the lion project, I request a cessation of the apparent *shell game of data/information release*. Both agencies share data on all Kofa NWR projects so please do not disingenuously state that the AGFD cannot give me information they have or are aware of because the USFWS initially generated the data, or vice versa. That practice is certainly not the way open government should be conducted.

Regarding ad hominem attacks directed at me, you wrote the next script in an intra-agency e-mail on Wed 11/17/2006 referring to me as an adversary, which I must admit is one of the kindest appellations slung at me since my retirement (Sir, you far exceeded my verbosity with the next 2 quoted passages).

{Quote}

“By way of segueing into some of the whys and wherefores, I have attached the language to which the USFWS’s Albuquerque office and the USFWS congressional liaison folks have said “yes”.

After further discussion with 400 (Mr. Larry Voyles) I wanted to offer the following perspective:

- *This release was drafted as a tactical document with two objectives:*
 - *Pre-empt an “attack” on USFWS and AZGFD desert bighorn sheep management by a former USFWS employee who has announced his intent to use the media to beat us up on this issue. For want of a better term, we wanted to vaccinate the Yuma-area media on the issue. Since our **adversary** has made it clear he intends to use his perception of the science to attack, this first objective is best accomplished if we get the truth on the street first.*
 - *To the maximum extent possible, get USFWS on the record on water development and lion management on Kofa NWR, something they have resisted the Department on for years. This is accomplished if the USFWS concurs with the public release of language connecting the current bighorn situation on the refuge to the two issues.”*
- *Given the nature of the expected attack and approach USFWS was willing to take, we needed this document to reek of science and, as you and Rory clearly noted, that meant a lot of numbers and stiff scientific language. Style, from the beginning was secondary to laying out the science.*
- *We had a single media target: The Yuma Sun newspaper and, possibly, the Yuma-area TV stations.*
- *Our target audience was the Bighorn Sheep critter groups and the Yuma Valley Rod and Gun Club.”*

{End Quote}

Your pejorative phrases such as “*tied themselves to*”, “*sews them into a corner*”, in an internal e-mail portrays the Service’s acquiescence to the Department’s wilderness water developments and lion management issues a resulting from a coercionary tactic. The passive players in this State vs. Federal partial *take-over* are the less professionally astute USFWS staff, including Manager Cornes, AZ/NM Supervisor Thomas Harvey, and National Wildlife Refuge System Region 2 Chief Chris Pease and eventually rising to the man-in-charge, Dr. Tuggle. The apparent lack of mutual professional respect between the agencies and the obvious deficiency of bighorn and refuge management experience by the Kofa NWR staff likely led to the current wilderness water lawsuit and the controversial shooting of the cougar. Another example of political pressure and disrespect for the Service’s management of Kofa NWR wildlife occurred when the Arizona Legislature overwhelmingly passed the House Concurrent Memorial 2008 and the AGFD Commission unanimously voted for it. [Note below: 400 = Supervisor Voyles]

{Quote}

- *“However awkward the language, 400 sees USFWS approval of the release as an incredible opportunity:*
 - *They have tyed themselves to taking a pro-bighorn water development approach. To date, they have insisted on giving wilderness characteristics the priority in water development decisions.*
 - *They have publicly acknowledged the lion population on the Kofa, again, something they have resisted for years.*
 - *It may not be coincidental that only last month our Director approached the USFWS Director in Albuquerque about the need to allow lion hunting on the refuge. It was that Director’ staff that approved the release.*
 - *Put another way, USFWS agreement to this public release **publicly sews them into a corner** with the key bighorn sheep constituencies on what we see as key desert bighorn management issues.”*

{End Quote}

Regarding comments about me in the e-mail, I do not consider attempting to ensure public officials follow rules, regulations, and environmental laws regarding wilderness and ethical wildlife management on the refuge I devoted my career to as adversarial. I am largely responsible for opposing the lion hunt over many years through my recommendations to the FWS each year when the topic arose during the annual AGFD/USFWS hunt coordination meetings each March. I was also responsible for opposing any artificial water developments in wilderness since I had the lead duty with Kofa NWR for determining potential locations of water developments in collaboration with the AGFD. I met you for the first time at the Kofa NWR office during a meeting with a wealthy cotton farmer who wanted to donate money towards water developments. My only 2 requirements were that any new developments must be tied to existing bighorn water sources as redevelopments based on a demonstrable need for bighorn and they must not be within wilderness. The plan was hampered when Assistant Henry apparently upset someone associated with the potential donator. I never knew if that issue was resolved. I do know that I was prepared to find acceptable sites to drill water wells (with the help of a long-time acquaintance who is a well driller), if necessary, to provide water on a conservative basis (low volume solar pumps) for the *benefit* of bighorn, which would secondarily *benefit* other wildlife, including mule deer, by default. Once I retired, I lost any influence and the now defunct Kofa Mountain Lion Hunt Plan and the secretive wilderness water development ensued. However, I will continue my strong opposition to those 2 issues to the fullest extent possible in any ethical manner I can. I have always kept the AGFD and Kofa staff fully apprised of what I intended to do without any secrecy, as I have always chosen to conduct myself with public issues. The important aspect is to get all the facts out in the open regarding the issues and use the experience available from the agencies and the public, to the fullest extent possible, to decide the unbiased, sound scientific procedures to follow. Without question there will be many times when the public must defer to the expertise of *ethical, unbiased* agency wildlife scientists. However, that must only occur once important far-reaching management decisions posited in documents such as the *Report* and the *Plan* receive public scrutiny similar to what the Draft Black Mountains Bighorn Sheep Management Plan received. Mr. Kevin Morgan is the habitat program manager with the Department's

Kingman office. He requested input for the Management Plan on the AZGFD website, when he stated; *"These sheep belong to the public," Morgan stated. "For this reason, it's important the public provide input to help us best manage this important resource."* The same applies to the publicly owned lands, the bighorn, and the predators that have coexisted for millennia before the Service and the Department began *managing* Kofa NWR.

The Black Mountains are experiencing similar problems occurring on Kofa NWR. Related manmade problems will increase for Kofa if the stationing of a new brigade and/or the 500,000-acre expansion of Yuma Proving Grounds receive(s) approval. The common biotic threads of the bighorn populations' declines, apart from the abiotic influences of cyclical weather variations and perhaps major climate change, involve removing prime-aged reproductive ewes and young sheep for translocations over a long duration and continuous hunting of rams during demonstrable declines. These cumulative consumptive uses have removed the most ecologically and genetically fit animals resulting with a large population segment of environmentally less-fit bighorn remaining that are more susceptible to additive anthropogenic and natural disturbances. Fitness is lost over spans of many years and it is an insidious, easily overlooked cause of declines. Natural events would not have removed those fit, prime-aged reproductive ewes that have annual survival rates of up to 90%, or those exquisite rams harvested by sport hunting while also in their prime. The excessive unnatural removals of ewes through capture and translocations have benefited the destination bighorn areas but it has damaged the source population. Overall, I would agree that *limited* hunting of rams is much less disruptive to bighorn populations than the loss of reproductive aged ewes. However, especially during a precipitous decline, the loss of prime rams decreases genetic variability leading to lower quality bighorn offspring of both sexes. Scrub rams mating with scrub ewes do not beget high-grade lambs.

Regarding another potential problem, cougars have traditionally occurred in both the Black Mountains and the Kofa and Castle Dome Mountains at fluctuating levels. There are only 2 reasons to suggest the excessive control efforts of 70% removal rate for cougars in either area. One of those reasons is to favor easily controllable consumptive human predation on bighorn through hunting them over the much less understood and less easily controllable natural lion predation on bighorn. The other reason is to have surpluses of ewes to capture and then translocate to other areas for continuation of the Department's *repatriation* program that has no end in sight. The *Plan's* specific prescription for cougar reductions on Kofa NWR is for *"an estimated minimum population of 5 mountain lions and a 70% removal rate, it will be necessary to remove 3 to 4 offending lions initially to yield results, according to Ballard (2001)"*. This unethically unfair difference involves hunters, and supporting groups such as the Yuma Valley Rod and Gun Club, and the Arizona Desert Bighorn Sheep Society (ADBSS), who pay for their predation privileges with money while cougars must pay the price with their life. Wildlife management incorporating biodiversity considerations demands a more equitable compromise among both unnatural and natural predators alike.

The large sums of money donated by groups such as the ADBSS may prejudice wildlife management decisions on Kofa NWR regarding lions and artificial water developments. On April 13, 2007, the ADBSS donated \$138,080.00 to the AGFD with the memo SAVE KOFA SHEEP. The sum supports many Kofa NWR projects, some that are very important and worthwhile. However, this next e-mail and decisions by an AGFD employee demonstrate how donated monies might bias and influence a wildlife manager's

decisions. From Mr. Jim Broschart, ADBSS Treasurer on Thursday May 31, 2007 to Gary R. Hovatter, 3 days before the collared cougar was shot.

- *“Mr. Hovatter, Why haven’t you returned my email? Is this true this lion has made TWO kills now. On bighorn sheep! I need the dates and locations of these kills. According (sic) to the usf&w paper we supported (\$138080) two strikes in 6 months and the lion goes to the bid (sic) kofa in the sky. When is his date he does have a collar!! Read the following after my info. I do out source for info.”*

Jim Broschart ADBSS Treasurer

- *“Jlm, (sic) I don’t know him. If he gives you grief go over his head to his supervisor. Or try Suzanne Henry at the KOFA office instead of Lindsey Smythe. I talked to Duane Shroufe last night and he assured me that if that the lion leaves the refuge again it will be removed. Supposedly they actually have two confirmed mortalities attributed to that lion. The AGFD did not know it was off the refuge earlier this month. They have since tightened up the sharing of information between the USFWS and AGFD. Now the lion is back on the refuge and they are still dicking (sic) around with the %\$#@ white paper. Its supposed to be signed this week but I would expect further stalling tactics by the USFWS before it is. Good luck and keep on this.” [Note: no author was listed for this section of the e-mail]*

What I consider another best example of the potential for donations from big game groups resulting in biased wildlife management decisions is the artificial water development project in the McPherson Wash wilderness on Kofa NWR. The AGFD Yuma Region IV, Wildlife Program Manager John Hervert (Program Manager Hervert) served as the designated Applicant for the AGFD Habitat Partnership Program Habitat Enhancement and Wildlife Management Proposal (*Proposal*) for the McPherson Tank project application dated March 23, 2007. For some background of my experience in this area of Kofa NWR, I first worked on the old existing McPherson Tank 29 years ago in 1978 to remove silt from the *improved*, once-natural tinaja. The old tank was never a reliable water source after a contractor installed a large concrete silt retention dam before 1978. The dam actually increased the siltation of the plunge pool below it as I have discussed in other documents.

The area of the new McPherson Tank installation, which resulted in the current lawsuit, is mule deer habitat more than bighorn habitat. However, the Project Information sheet displays the following:

- Wildlife Species to Benefit: **Bighorn sheep 90%, Mule Deer 10%**
- Possible Funding Partners: **ADBSS**

Remembering that this water development is in a valley adjacent to a ridge, but not up in good escape terrain, it is of greater value to mule deer than bighorn. Program Manager Hervert has published important research on mule deer water requirements and others know mule deer require more free water than bighorn. He is unethically exaggerating the benefits of this development to bighorn and he is at least implying that out of each 100-visit events of these 2 wild ungulate species to the new development that 90 events will be bighorn-related and 10 will be mule deer events. The Project Information sheet for McPherson Tank referenced that a TrailMaster camera will be installed to document the use and that should have been required as soon as the tank was completed. If a camera

has not been installed to date, then one should be immediately added. The evidence from that camera is critical and procedures must occur to ensure the authenticity of the photos and data taken at *this* specific site for durations necessary to gather sufficient data. The photo documentation will be confirming or disconfirming evidence regarding the 90%:10% statement and independent of any opinions. Bighorn have not had the chance for habituation to artificial water in this specific area so the data collected could have implications for future developments *outside of wilderness*, if those waters receive approval following sound inferential scientific investigations, and if this water remains in wilderness long enough to provide data. The same data recording must occur at the new Yaqui Tanks development to help document use. I assume that this data collection is already occurring especially since it was listed on the McPherson Tank worksheet but I have not seen the Yaqui worksheet.

False information was entered on the AGFD Water Development Worksheet (*Worksheet*) during the planning and approval stages of the McPherson Tank project. The clearly inaccurate information may have been a justification the AGFD Phoenix office staffers used to approve the project without personally visiting the site. Some authorities think water should definitely be available to bighorn within 4-mile radii of their *primary* home ranges. From Page 9 of the *Worksheet*:

2) “Please list the Development Branch personnel and date coordinated with for this project. Only by phone. Joseph Currie, 3-23-07.”

4) “Is there a perennial water source available to big game within four miles of this project? [All emphases were included in the original *Worksheet* for **2) through **10**)]**

 YES (please complete #5 below) X NO (skip #5 below)

5) For the accessible, perennial water source nearest this project:

Name of water source:

Type of water source (catchment, spring, dirt tank, etc.):

Ownership in miles from project:

Distance in miles from project:

10) Was a site visit completed? Yes X No

If Yes, please list personnel that attended and date.

There are 2 improved perennial “water sources” (watering holes) within 4 miles of the new water development project that refuge personnel consistently haul water to; I first hauled to them in 1978. A 3rd watering hole, Saguaro Tank, that we sometimes hauled to before the *Arizona Desert Wilderness Act of 1990* is a reliable improved grotto-type water source that seldom, if ever, went completely dry. The other 2 tanks are not allowed to go dry and are easily accessed close by with a water truck. During the drier months, these tanks receive frequent checking on a strict schedule to ensure water is available on a perennial basis. After I read the *Worksheet*, I took a piece of paper and using the map scale on the topo, and then roughly determined these distances. These are conservative straight-line distances from the new McPherson Tank water development:

- Little White Tanks: **3.25** miles Heavy mule deer use w/ less frequency by bighorn
- Figueroa Tank: **3.50** miles Mule deer and bighorn use
- Saguaro Tank: **2.50** miles Mostly bighorn and less mule deer use

All 3 tanks, are easily located on any topographical map and generally located on the very common Kofa NWR refuge leaflet. Both the AGFD and KNWR have extremely competent GIS capable staffers (leagues above my capabilities) who knew or could have readily gotten this common, easily obtainable information. In fact, they knew this information because the AGFD and/or Kofa NWR GIS generated map on page 29 of the *Report* clearly delineates that the area of the new McPherson Tank is within 2 intersecting radii, each of 3-mile radius (more accurate than my measurement) encompassing habitat with adequate water supplies:

Figure 3. Bighorn sheep water with 3-mile radius circle drawn around “permanent” waterholes (red dots). Habitat outside circles lacks adequate water supplies. Green and blue dots are bighorn location from fall surveys 1992-2003

A graphic of the relevant section of the map appears on the last page of this document. The 2 improved tanks delineated on the map graphic are well known and we have abundant documentation in the Kofa NWR files that Little White Tanks, especially, and Figueroa Tank have received consistent water hauling over at least the past 30 years.

In the future before members of the AGFD Habitat/Game Development Branch approve other potentially controversial projects that regional program managers consider *urgent*, especially involving any potential wilderness conflicts, I suggest the requirement of a *site visit* to ensure complete, unbiased compliance. The justification to install this secretive water development was to benefit the declining bighorn herd, but there are greater numbers of deer in this area than bighorn. The water will benefit mule deer markedly more than bighorn, not just from the sheer numbers of more deer but that deer require more free water, resulting in more frequent visits, than bighorn will require. Considering the questionable and assumed benefits to bighorn, there simply was no biologically justifiable evidence or any other compelling logical reason to install this water development in an area acknowledged adequately watered by the AGFD staffers own map and that engendered a lawsuit from its wilderness location. Bighorn will most likely use this water to some extent, but at what cost to the concepts of conserving **wild**life, *preserving **wild**erness*, and the potential harm done to professional/personal reputations?

Throughout all the discussions regarding the Kofa NWR bighorn population decline the Department will never include hunting and removal for translocation in the list of potential causes for the decline while placing cougars near or at the top of the list along with drought. I have written volumes on the subject and I will not go into it here except to offer another one of Game Specialist Henry’s strikethroughs and several brief comments. ~~There is also some thought that repeatedly collecting sheep from the same areas for transplant may have eliminated the ‘institutional memory’ of that area from herd use and caused suitable habitat to become unoccupied.~~—To date, 569 bighorn, mostly prime-aged reproductive adult ewes, the most important segment of the population, have been translocated from Kofa. This

argument is one I will not need to continue. Many years will pass before the Kofa population reaches the lowest capture/translocation threshold levels of 800 bighorn, if it ever does, before another translocation occurs, especially if current consumptive uses continue before returning to a recovery of 800 bighorn. I cannot think of a scenario where Kofa NWR will make a full recovery to levels of up to 1000 wild bighorn without some cessation or a major relaxation of all forms of anthropogenic consumptive uses that wildlife managers can control.

I sent an important e-mail regarding the misstatements in newspaper articles to Supervisor Voyles, which he never replied to, although he stated he would reply by the end of that week. Soon after that e-mail, I received notification that I must go through you as the official spokesperson for Region IV. I initially stated in the e-mail correspondence and in the comment section of the Yuma Sun newspaper article that I thought the 2 lion-killed Kofa NWR bighorn statement was an honest error. However, it was not and that has partially led to the rift I now have with the Department and the Service regarding the issue. Had I not brought the false statement to light no one outside the agencies would have known the difference. I acknowledge my limited lion experience, but the AGFD literally killed any attempts for anyone to gain valuable cougar knowledge, including themselves. The AGFD, with the inexperienced and acquiescent Kofa NWR staff, will likely continue to kill cougars based on ignorance and will not manage them fairly with the application of sound wildlife science. Therefore, no one will apparently ever gain the necessary knowledge about cougars to manage them properly on Kofa NWR and that dearth of natural history knowledge will exist as long as the Department has a stranglehold on Kofa NWR predator *management*. I will never be a lion expert because I lost that opportunity when I retired. However, and this is for sure and for certain, no individuals or persons collectively have the extensive knowledge and experience I possess regarding Kofa NWR, its bighorn, and the vegetation resources desert sheep rely on for survival. I will continue to counter missteps by the KNWR and AGFD staffs with even more intensity regarding bighorn management than I have with the cougar issue. I will also strive to prevent the Department's unnecessary artificial water developments on Kofa NWR, but most assuredly, I will oppose those in wilderness areas by any ethical means available to me.

For the record, I am not now nor have I ever been opposed to bighorn ram harvests or any other sport hunting on Kofa NWR when the scientific evidence supports a harvestable surplus of any game animal under consideration. I strongly oppose excessive hunting of any population experiencing severe declines while the root causes remain unidentified. If climatic forces allow, other multifactorial causes are identified and *moderated*, and as a result, when the population returns to a base estimate of 600 bighorn, then I would prefer to see limited hunting of only the very oldest age-class rams. A very limited ram hunt of this age-class could occur in the interim, but not of the current harvesting of prime-aged Class III/IV rams. If the population returned to 800 bighorn, then conservative annual captures and translocations, (≤ 20) could resume. This limited harvest/translocation prescription could help ensure the viability of the *sheep factory* herd for which Kofa NWR was once renowned. The Kofa herd would serve as a *reservoir* of source bighorn for translocations to other areas, but at a price of very limited or no consumptive uses. I posit limited ram harvests rather than no harvests at all because senescent rams will die naturally and providing this opportunity to *reimburse* the support of the ADBSS and others is equitable. NGO hunter groups would also benefit from the resupply of Kofa MWR bighorn to other areas that allow hunting opportunities. Mountain lion control would be part of the prescription but

based on equitable harvest levels for that native predator as well, throughout the Kofa Complex. Conducting the least intrusive bighorn research possible will help ensure minimal losses of ewes from those research efforts. If capture-related mortalities (e.g. from capture myopathy) happen within a 1-month period and/or any other unexplained mortalities exceed 20%, then no allowances for collaring other replacement bighorn, especially ewes, should occur. The foregoing conservative wildlife management approach, neither overly custodial nor manipulative, will have the best overall chance of assisting the Kofa NWR bighorn herd to a potential recovery; something all consumptive and non-consumptive users and biodiversity advocates have a common stake in accomplishing.

I thank those AGFD and USFWS personnel who reviewed the *Plan* and *Report* documents internally then commented on the management recommendations of bighorn, cougar, and artificial wildlife water developments, especially those in wilderness, on Kofa NWR. Their apparent largely unbiased compliance with rules, regulations, and policy fosters the trust in government many members of the public have recently lost at all levels: local, state and federal. The Arizona State Legislators deserve commendations for the foresight to recognize the need for the Arizona Public Records Act and I certainly trust that current and future legislators will never diminish the ability of citizens to make requests for public documents through this valuable open government process. I recognize the efforts of Mr. Marty Fabritz, Executive Assistant to the Director, and others who furnished the public documents to the dedicated person who initially submitted the public records request and the only wildlife scientist in the Region 2 Regional Office who attempts to ensure the application of scientifically defensible wildlife management principles by the Kofa NWR staff. Lastly, I thank the AGFD Commissioners, with whose decisions I do not always agree. However, I respect their efforts to represent all of Arizona's people.

I am solely responsible for the information I presented in this letter. No person read or vetted this material before I sent it. If there are demonstrable errors in any of my document transcriptions or informational positions, please inform me and I will correct and retract those errors. I will endeavor to reply to all questions from anyone and I equally welcome criticisms and comments: good, bad, or indifferent. My goal, similar to my many other voluminous/verbose scripts regarding Kofa NWR wildlife and water management since I retired, is to *encourage and ensure* the AGFD and the USFWS Region 2/Kofa NWR staffs follow ethical, honest, sound, scientific wildlife management practices and principles in the spirit of open government. Simple, forthright communication with members of the public, providing fair comment periods for far-reaching and controversial proposals included in the *Plan* and *Report*, and completing NEPA and other legal requirements most likely would have forestalled the recent legal, political, social, and personal consequences of actions by the AGFD Region IV, the Region 2 Regional Office, and the Kofa NWR staffs.

Wednesday, October 17, 2007, 14:35 (-07:00 AZ/PDT)

Thank you,
Ron Kearns
Retired Kofa NWR Wildlife Biologist, USFWS
Former Federal Collateral Duty Refuge Law Enforcement Officer, USFWS
Viet Nam Era Veteran, US Army

Kofa bighorn have intrinsic value far superior to and with precedence over all extrinsic consumptive uses wild sheep could be subjected to. Kofa NWR bighorn management strategies (and managers) will have demonstrably failed and irresponsibly damaged the quality of this extant population if non-indigenous translocated bighorn are ever imported into the Refuge for recompensive attempts to salvage a mismanaged, once prolific viable deme. Ron Kearns

Letter Recipients:

Duane Shroufe, Director, AGFD
Commissioners, AGFD
Marty Fabritz, Executive Assistant to Director, AGFD
Larry Voyles, Supervisor, Region IV, AGFD
John Hervert, Program Manager, Region IV, AGFD
Bob Henry, Game Specialist, Region IV, AGFD
Larry Hovatter, I&E Manager, Region IV, AGFD

Dr. Benjamin Tuggle, Regional Director, Region 2, USFWS
Chris Pease, Chief, National Wildlife Refuge System, Region 2
Thomas Harvey, AZ/NM Refuge Supervisor, Region 2
Jeannie Wagner-Greven, Asst. AZ/NM Refuge Supervisor, Region 2
Kathy Granillo, Chief Biologist, Region 2
Mitch Ellis, Refuge Manager, Buenos Aires NWR
Susanna Henry, Acting Refuge Manager, Kofa NWR
Lindsay Smythe, Wildlife Biologist, Kofa NWR
Debbie Pike, Administrative Technician, Kofa NWR

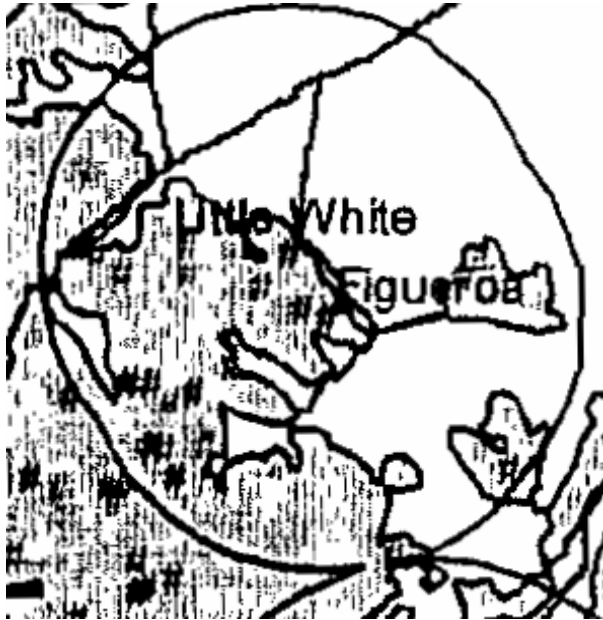
Cc:

Mike Taylor, BLM

Lori Faeth, AZ Governors Office,
Rachel Kondor, Congressman Grijalva's Office

Figure 3. Bighorn sheep water with 3-miles radius circle drawn around “permanent” waterholes (red dots). Habit outside circles lacks adequate water supplies. Green and blue dots are bighorn location from fall surveys 1992-2003

The graphic comes from a copy/paste from page 29 of the *Report*. The new McPherson Tank artificial water development in wilderness is located in the valley (clear white area) approximately at the 9 o’ clock position within the perimeter of the intersecting radii.



Supporting Associated Comments

1) Population level effects of mountain lions on bighorn concept:

In a December 04, 2006, these are e-mail excerpts from AGFD WM Stewart Kohnke to I&E Manager Hovatter regarding the Kofa NWR Draft Mountain Lion Hunt Plan:

Gary, “Doesn’t this go against our “Predator MGMT philosophy that predators do not affect the population? NN000 (sic) don’t go there.”

“I know they are trying to get there (sic) foot in the door but I think if there (sic) goal is too (sic) reduce the population of mountain lions they need to make it higher bag limit and eliminate the no kill kittens or female restrictions. I would like to see it as a stand alone unit with multiple bag limit of 5 without any restrictions to female or kittens. I would accept as a stand alone unit.

WM Kohnke is an experienced biologist. He has worked for many years with bighorn in an area north of Kofa NWR where he considers mountain lion predation and drought as the major causes of bighorn mortalities in his district.

- 2) The next e-mail excerpt involves a directive to avoid releasing the preliminary 2006 bighorn survey numbers to me. This e-mail was about a week after the end of the survey. All I wanted initially was the preliminary total number of bighorn seen on the survey. This is common information given out to everyone since surveys began in 1980, which also includes releasing data to bighorn and mule deer hunters and others after every 2.5 to 3.0 hour flight at the helicopter staging areas who want to know where the observers saw the *monster* rams and mule deer bucks. This total count number was common knowledge to many people when I made my numerous requests that were denied. Before I received the information because of my FOIA request, I saw some friends who said they knew the total numbers and they had already told other members of the public how many sheep were observed. This is simply information that we all released to people calling over the phone, those we spoke to on the refuge, in the grocery store, or anywhere else. Sure, the reason I wanted this information was primarily to stop any plans that might be considered for a capture/translocation before those expensive plans were solidified. In one of my first e-mail requests, I predicted a low count in 2006 year with my estimate of observed bighorn as 225 based on my knowledge and experience with over 20 years of performing this survey and from the current weather conditions. When I finally got the total count, the number seen was 247, a difference of 22 sheep between my estimate of 225 and what was counted on the \$40,000+ survey. Given the distinct possibility of counting some of the same bighorn twice or more (since they often run into other adjacent survey areas that are not counted until later that day or even the next day) my guesstimate was not far off. The e-mail between Manager Cornes and I&E Manager Hovatter was dated sometime after November 09, 2006, approximately 5 days or so after the survey, follows:

“Paul, I talked to Larry (Cc for this e-mail) and he concurred with not releasing the Bighorn Sheep numbers until after our respective staffs complete compiling and analyzing the survey results sometime next week. Per Larry’s guidance, I contacted the WMs (472, 473, 474, 483) who participated in the survey and/or are more than normally likely to run into Mr. Kerns (sic) between now and the release of the survey data, and let them know of our intent not to release preliminary numbers. I also passed this on to Randy Smith, our South Sector supervisor. –Gary”

- 3) An e-mail excerpt from AGFD South Sector Supervisor Randall Smith to Affected WM’s dated May 22, 2007:

*“The decisions regarding the choice of locations of the water re-developments were, to my understanding, collaboration between the personnel on the Kofa and the Region. Largely due to outside influences, time became an essence in developing a plan to address this situation. **I am assuming that because of his extensive knowledge of the area, John made our decisions where to locate redevelopments.** I would like to add however that if you feel strongly about any redevelopment location and can articulate any significant biological alternative to the existent location, that your alternative choice might be considered and changed. Call me if that is the case, otherwise John’s choices will be final. Randy”*